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AUTHOR Utriainen, Sirpa, Ed.
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ABSTRACT

The two major articles of child welfare legislation in Finland are the Child Welfare Act of 1983 and the Child Custody and Right of Access Act of 1983. These new acts are part of a reform of social legislation and services providing increased flexibility and effectiveness in protecting Finnish children's health and happiness. The Acts attach special attention to improving conditions under which the child grows up. Their effects extend to schools, the health services, building and housing, the family, and the culture at large. Chapters of the Child Welfare Act concern general provisions, development of the nurturing, or "growing," environment and assistance in child upbringing, principles and modes of family-oriented and individual child welfare, assistance in "open care," taking a child into care, provision of substitute care and after-care, provision of foster care, appeals, miscellaneous provisions, and entry of the Act into force. Chapters of the Child Custody and Right of Access Act deal with general provisions, custodians and the right of access, judicial proceedings, and miscellaneous provisions. (RH)

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CHILD WELFARE ACT

CHILD CUSTODY AND RIGHT OF ACCESS ACT

FINLAND

CENTRAL UNION FOR CHILD WELFARE IN FINLAND

FOREWORD

Child welfare legislation in Finland has been under a wide reform from the middle of the 1970's onwards. In the recent two decades society and the status of the child have changed a great deal, and so the old legislation has proved insufficient to meet present needs. The following Acts have been reformed or greatly amended: Paternity Act (1975), Act on Child Maintenance (1975), Act on Child Maintenance Security (1977), Adoption Act (1979), Child Welfare Act (1983) and Child Custody and Right of Access Act (1983). Provisions on inter-country adoption have been added to the Adoption Act in 1984.

The two major Acts in child welfare are the Child Custody and Right of Access Act where the individual care of a child in a family is stipulated and the Child Welfare Act where the responsibilities of the state and local authorities are laid down.

The reform is an overhaul of the entire social services and provides more flexible and effective safeguards for the child's health and happiness. The fundamental principles of these Acts are the best interests of the child and the preventive work. Also the child's own wishes and views are given more weight than before.

The new Acts attach special attention to improving conditions under which the child grows up. Its effects extend to school, the health services, building, housing, the family and culture. The new laws consider that all these must operate as to take the priorities of child welfare into account.

The Central Union for Child Welfare in Finland wishes to thank Counsellor of Legislation Matti Savolainen and translator J. Milton for their great help in the translation of these Acts.

Helsinki January 1985
CENTRAL UNION FOR CHILD WELFARE IN FINLAND

CHILD WELFARE ACT OF 1983

FINLAND

Chapter 1
GENERAL PROVISIONS

Section 1
THE RIGHTS OF A CHILD

A child is entitled to a secure and stimulating growing environment and to a harmonious and well-balanced development. A child has a special right to protection.

Section 2
CHILD WELFARE

The purpose of child welfare is to ensure a child the rights mentioned in section 1 by providing a good general growing environment, by assisting the custodians in child upbringing and by providing family-oriented and individual child welfare.

Under all circumstances a child shall be provided such care as stipulated in the Child Custody and Right of Access Act (361/83).

Section 3
CHILD AND YOUNG PERSON

A "child" within the meaning of this Act is a person under the age of eighteen; a "young person" is under twenty-one.

Section 4
PROVISION OF CHILD WELFARE

The local authority shall be responsible for providing child welfare of such content and extent as corresponds to the needs in its area.

The social welfare board of the local authority shall approve the general principles and directives for the provision and development of child welfare under its supervision.

Section 5
THE CHILD WELFARE ACT IN RELATION TO OTHER LAWS

The Planning and State Subsidies for Welfare and Health Act (677/82) shall be applied to activities of the local authority in accordance with this Act, unless otherwise stipulated by law.

Chapter 2
DEVELOPMENT OF THE GROWING ENVIRONMENT AND ASSISTANCE IN CHILD UPBRINGING

Section 6
DEVELOPMENT OF THE GROWING ENVIRONMENT

The social welfare board and other local authorities shall follow the development of children's growing environment, rectify any defects in it and prevent such from arising.

The social welfare board shall provide information and expert assistance on growing environment and social problems of children and young persons to other authorities and to citizens and organizations operating in its area.

Section 7
DEVELOPMENT OF SERVICES FOR ASSISTANCE IN CHILD UPBRINGING

In developing social welfare and health care, education and other services for children, young persons and families with children, the local authority shall ensure that these services assist custodians in child upbringing and help to clarify the need for special assistance of children, young persons and families with children. In developing services, special attention shall be paid to the needs and wishes of children and young persons.

Where an adult is given health and welfare services such as welfare for alcoholics or mental health care, the need for care and assistance of a child in his custody shall also be taken into account.

Chapter 3
PRINCIPLES AND MODES OF FAMILY-ORIENTED AND INDIVIDUAL CHILD WELFARE

Section 8
MODES OF CHILD WELFARE

Family-oriented and individual child welfare comprises assistance in open care, taking into care, substitute care and after-care.

Section 9
PRINCIPLES

In family-oriented and individual child welfare, the first and paramount consideration shall be the best interests of the child and parents and others

caring for him shall be assisted in his upbringing so as to establish a favourable growing environment for him on permanent basis.

Where substitute care is needed and is in the best interests of the child, it shall be provided without delay, as stipulated in Chapters 5 and 6.

Any action taken in the family-oriented and individual child welfare shall be performed tactfully and in such a way that no harm will be caused to the development of the child.

Section 10
ASCERTAINMENT OF THE BEST INTERESTS OF A CHILD AND HEARING OF A CHILD

In ascertaining the best interests of a child, his wishes and views shall be taken into account, his growing environment shall be studied and due consideration shall be given to the probable effects of alternative child welfare measures applicable to him.

In addition to his custodians, a child who has attained the age of fifteen years shall be heard in any child welfare case concerning him.

Section 11
PROCEDURES

A case plan shall be made for each case of family-oriented and individual child welfare, unless the matter under consideration applies only to temporary counselling or guidance.

Health care authorities shall give expert assistance in family-oriented and individual child welfare and, if necessary, provide care for the child.

Chapter 4
ASSISTANCE IN OPEN CARE

Section 12
DUTIES OF THE SOCIAL WELFARE BOARD

The social welfare board shall provide such assistance as is prescribed in this chapter without delay,

1) if the health or development of a child or young person are endangered or not safeguarded by his growing environment; or

2) if a child or young person endangers his own health or development by his behaviour.

Section 13

SOCIAL SERVICES AND OTHER ASSISTANCE

The provisions of Chapter 3 of this Act shall be taken into account in addition to those of the Social Welfare Act (710/82) and other laws relating to social welfare in providing social services, social assistance, living allowance and other forms of social welfare.

The social welfare board shall also, if necessary:

1) appoint a lay-helper or supporting family for a child;
2) assist a child or young person in his education and training, in job and house finding, and in his leisure activities and other personal needs, by helping him financially and otherwise; and
3) organize holiday and recreational activities.

The assistance referred to in point 2 shall be provided in cooperation with the child or young person and his parents or other persons caring for him.

Section 14

FOSTER CARE OR RESIDENTIAL CARE AS ASSISTANCE

Temporary foster or residential care can be provided to assist child upbringing or for the rehabilitation of a child, his parents or other custodians. Such care, if it applies to the child alone, cannot be provided against the will of a child who has attained the age of twelve years. This also applies to a child who has not attained the age of twelve years, if the child is so mature that his will can be taken into consideration.

Section 15

WATCHING OVER THE INTERESTS OF A CHILD

If necessary, a representative of the social welfare board shall be present when the expulsion from school of a child of compulsory-school age is being considered by the education board of the local authority.

The social welfare board shall be represented in the preliminary and court hearings of a case in which a child is accused of an illegal act, unless this is obviously unnecessary.

In matters referred to in paras 1 and 2, the board shall watch over the interests of the child and shall, together with his custodians, support his growth to responsibility.

Chapter 5
TAKING A CHILD INTO CARE

Section 16
DUTY TO TAKE A CHILD INTO CARE AND PROVIDE SUBSTITUTE CARE

The social welfare board shall take a child into care and provide substitute care for him,

if his health or development is seriously endangered by lack of care or other conditions at home, or if the child seriously endangers his health or development by abuse of intoxicants, by committing an illegal act other than a minor offense, or by any other comparable behaviour,

if the measures stated in Chapter 4 are not appropriate or have proved to be inadequate, and

if substitute care is considered to be in the best interests of the child.

Section 17
HEARING OF EXPERTS AND THE PARTIES CONCERNED. SUBMISSION OF THE DECISION

Before taking a child into care and placing him in substitute care, the social welfare board shall hear the parties concerned as stipulated in section 15 of the Administrative Procedures Act (598/82). If necessary, the board shall also consult experts on child growth and development.

If a child who has attained the age of fifteen years or any other party concerned, opposes taking into care, or it has not been possible to hear one of the parties concerned, the decision shall be submitted to the Provincial Administrative Court for approval within thirty days.

Section 18
EMERGENCY CARE ORDER

If a child is in imminent danger for reasons mentioned in section 16 or otherwise in need of an immediate care order and substitute care, the social welfare board may take him into care without submitting the decision to the Provincial Administrative Court for approval.

Emergency care order shall expire within fourteen days if it is not during this time taken up as a care order referred to in section 17. Such a care order shall be handled without delay.

Section 19
CUSTODY OF A CHILD IN CARE

When the social welfare board takes a child into care, it shall be empowered to decide on his care, upbringing, supervision, other welfare, and residence. The board shall, however, make every effort to cooperate with the parents or other custodians of the child.

The social welfare board or the director of a residential home shall decide on contacts between the child and his parents or other persons close to him in accordance with sections 24 and 25 of this Act.

When a child is in care, a court may decide who shall have custody and guardianship of the child as stipulated in the Child Custody and Right of Access Act and the Guardianship Act.

Section 20

TERMINATION OF CARE

The social welfare board shall discharge a child from care, when the need for care or substitute placement stated in section 16 no longer applies, unless such discharge is clearly contrary to the best interests of the child. In determining what is in the best interests of the child, the duration of the substitute care, the relationship between the child and the persons providing the substitute care, and the contacts between the child and his parents shall be taken into account. A care order shall expire when the child attains the age of eighteen years or concludes marriage.

Section 21

NON-VALIDITY OF A CARE ORDER

If a care order is not implemented within three months of the date on which it acquires the force of law, it shall cease to be valid.

Chapter 6

PROVISION OF SUBSTITUTE CARE AND AFTER-CARE

General provisions regarding substitute care

Section 22

SUBSTITUTE CARE

Substitute care means providing care and upbringing away from a child's own home. Substitute care can be given only to a child taken into care by the social welfare board. Supervision of care for children placed privately is dealt with in section 41.

Substitute care can take the form of foster care, residential care or any other appropriate arrangement.

A child can also be placed temporarily with his parents or other custodians for his care and upbringing.

Section 23

HEARING OF FOSTER PARENTS OR A RESIDENTIAL HOME DIRECTOR

When the child is placed in substitute care, the persons with whom the social welfare board has signed an agreement for foster care, or the director of the residential home, shall be heard on questions relating to the custody of the child, unless such a hearing is not necessary for deciding the case.

Child's status in substitute care

Section 24
HUMAN RELATIONS AND ACCESS

In substitute care a child shall be ensured the continuous and secure human relations that are important for his development. He is entitled to meet his parents and other persons close to him and to keep in touch with them.

The social welfare board shall support and facilitate the child's access to his parents and to other persons close to him.

Section 25
RESTRICTION OF ACCESS

The social welfare board or the director of a residential home may restrict the right of access of a child in substitute care to his parents or other persons close to him, as stipulated in detail in Presidential Decree,

1) if such access clearly endangers the development or safety of the child; or

2) if such restriction is necessary for the safety or security of the parents, or the children or staff in the residential home.

By virtue of para 1, the social welfare board may decide that a child's whereabouts shall not be disclosed to his parents or custodians while he is in care.

Section 26
DISCLOSING INFORMATION TO A CHILD

The social welfare board shall take the initiative of informing a child in substitute care in a manner appropriate to his age and level of development, basing on documents and other material, why he has been taken into care and of explaining the measures that are being or will be taken in his case.

The child shall not be given such information as will endanger his development or is contrary to some very important private interest.

Foster care

Section 27
PROVISION OF FOSTER CARE

Foster care shall be provided in a suitable family that has been approved for this purpose by the social welfare board, and with whom the board has signed an agreement.

A single family may simultaneously care for and bring up a maximun of four children, including the family's own school-age children, except in the case of

siblings or children who have been brought up in a single family, or unless there are other special grounds for making an exception to the said maximum number.

Section 28

TRAINING, ASSISTANCE AND ELIMINATION OF DEFICIENCIES IN FOSTERING

The social welfare board shall provide training for persons with whom it has signed a foster-care agreement and shall assist them in child upbringing by supplying the necessary social services.

If foster care is found to be unsuitable or inadequate for a child, the social welfare board shall endeavour to remedy the situation. If this is not possible, the agreement shall be revoked.

Residential care

Section 29

CHILD WELFARE INSTITUTIONS

Children's homes, youth homes and community homes and other comparable institutions are the types of child welfare institution in which substitute or residential care can be provided.

Section 30

GROWING ENVIRONMENT AND CONDITIONS IN RESIDENTIAL HOMES

Section 1 of the Child Custody and Right of Access Act shall apply to the upbringing of a child and the organization of his growing environment in a residential home.

A residential home shall have adequate and suitable space and facilities, and the necessary number of qualified welfare and other staff. The number of beds and qualified employees in a residential home shall be specified in Presidential Decree.

Section 31

SANCTIONS AND RESTRICTIONS

If a child is in possession of intoxicants or equipment for their use, or substances or objects that are harmful, these shall be confiscated by the residential home.

If there are adequate grounds to suspect that a child has intoxicants or equipment for their use in his possession, the director of a residential home can order him to be searched. If there are sufficient grounds to suspect that mail or other delivery addressed to a child contains such intoxicants or equipment or anything else that constitutes a danger, the director of the residential home may order his mail or delivery to be inspected.

Section 32

SPECIAL RESTRICTIONS

If it is necessary for his care in a residential home and otherwise in his best interests, a child may, for a given period, be forbidden to leave the grounds of the home, or his freedom of movement may be otherwise restricted, as stipulated in detail in Presidential Decree,

1) if the child has been committed to the care of the social welfare board on the grounds of having seriously endangered his health or development by consuming intoxicants, committing an illegal act other than a minor offense, or by other comparable behaviour;

2) if the child behaves in the manner stated in point 1 while he is in the home; or

3) if there are special grounds for considering such prohibition or restriction otherwise necessary for his care.

A child may be isolated from the other children in the home if he is a danger to himself or others, or if the isolation is otherwise necessary for his care. The isolation shall not continue for more than 24 hours without a new decision and it shall be supervised continuously by staff members. The isolation can not be continued except on special grounds stipulated in Presidential Decree. Under no circumstances may it exceed 48 hours.

The conditions and enforcement of isolation shall be stipulated in Presidential Decree.

Section 33

ESTABLISHMENT AND SUPERVISION OF A PRIVATE RESIDENTIAL HOME

The Provincial Board gives a permission for the establishment, enlargement or essential change in the activities of a private residential home.

After-care

Section 34

DUTIES OF THE SOCIAL WELFARE BOARD IN AFTER-CARE

When substitute care ends, the social welfare board shall continue to assist a child or young person discharged from care and his parents or other persons caring for him as stipulated in Chapters 3 and 4 and section 24.

Chapter 7
APPEALS

Section 35
APPEALS

Chapter 7 of the Social Welfare Act shall be applicable to any appeal from a decision made under this Act, unless otherwise stipulated below.

Section 36
APPEAL FROM AN ORDER SUBJECT TO A SUBMISSION

The parties concerned are entitled to appeal the decision on care order made in accordance with section 17, para 2, of this Act to the Provincial Administrative Court within thirty days of the receipt of notification. During these thirty days, such an appeal may alternatively be lodged to the social welfare board, which shall forward it within fourteen days to the Provincial Administrative Court, and shall include its own report with it.

Section 37
APPEAL TO THE SUPREME ADMINISTRATIVE COURT

Appeals from decisions on care orders, placement in substitute care and termination of care made by the Provincial Administrative Court in pursuance of this Act may be lodged to the Supreme Administrative Court, as stipulated in Appeals from Administrative Proceedings Act (154/50). The appeal papers may alternatively be lodged to the Provincial Administrative Court for forwarding to the Supreme Administrative Court.

Other decisions than those stated in para 1 relating to family-oriented and individual child welfare rendered by the Provincial Administrative Court in pursuance of this Act cannot be appealed.

Section 38
ENFORCEMENT OF AN ORDER SUBJECT TO APPEAL

A care order and decision relating to substitute care are enforceable although they are subject to appeal or submission, if their implementation cannot be deferred without endangering the health or development of the child and if an authority has ordered their immediate implementation.

After a submission or appeal has been made, the appellate court may prohibit the implementation of the decision or order it to be discontinued.

Section 39
EXPEDITIOUS HEARINGS

An appeal or submission relating to family-oriented or individual child welfare made in pursuance of this Act shall be heard and decided expeditiously.

Chapter 8
MISCELLANEOUS PROVISIONS

Section 40
DUTY OF NOTIFICATION

If, in the course of his activities, an employee or elected official in health care, social welfare, education, the Police or the Church of Finland gets to know about a child in evident need of family-oriented or individual child welfare, he shall notify the social welfare board without delay.

Persons other than those mentioned in para 1 may also make such notification.

Section 41
SUPERVISION OF CARE OF CHILDREN PLACED PRIVATELY

The social welfare board shall be notified without delay of a child that has been placed permanently in a private home by instance other than the social welfare board. Both the child's custodian and the person put in charge of his care shall be responsible for making such notification.

Upon the receipt of such notification, the social welfare board shall ascertain whether the private home is properly qualified for child care and upbringing, whether the person in charge of the care is capable of looking after the child, and whether the placement is in the best interests of the child.

If the private home and the care and upbringing given there are found to be unsuitable or inadequate, the social welfare board shall endeavour to remedy the situation there. If this is not possible, the social welfare board shall prohibit this home from caring for the child.

Section 42
ADVISORY GROUP

A local authority may set up an advisory group for child welfare, comprising representatives of social welfare, experts on child upbringing and development, and others, to assist the social welfare board in the provision of family-oriented and individual child welfare services and to issue opinions on custody, taking into care, and substitute care.

Section 43
PROVISION OF SUBSTITUTE CARE WITH THE AID OF A PRIVATE ORGANIZATION OR OTHER AGENCY

In arranging substitute care for a child, the social welfare board may also use the services of a private child welfare agency that has been licensed for such purposes by the National Board of Social Welfare.

Section 44

EXPERIMENTATION AND DEVELOPMENT

The local authority shall carry on such experimental activity as is needed for the development and improvement of the growing environment for children and young persons and of family-oriented and individual child welfare.

Additional state subsidies may be granted within the limits of the national budget to promote activities pursuant to sections 6 and 7 that are important for national or regional experiments, research or development.

Section 45

LOCAL AUTHORITY RESPONSIBLE FOR FAMILY-ORIENTED AND INDIVIDUAL CHILD WELFARE

The duty of the local authority to provide family-oriented and individual child welfare is laid down in section 14 and section 15, para 1, of the Social Welfare Act. Section 15, para 2, sections 16 and 42, and section 49, para 2, of the Social Welfare Act are also applicable to foster and residential care provided under this Act.

The National Board of Social Welfare shall decide which local authority shall be responsible for providing family-oriented and individual child welfare for a child or young person whose parents, or one of them, has or has had Finnish nationality but who, according to investigations made by the National Board of Social Welfare, has no domicile or place of residence in Finland and who, to the best knowledge of the said National Board, is not receiving the necessary care in his country of residence.

Through the intermediary of the Ministry for Foreign Affairs, the local authority involved may request assistance in ascertaining abroad the child's need for welfare. Such ascertainment can also be made abroad by an official who, according to section 16 of the Administration of Foreign Affairs Act (1129/77), is empowered to administer the duties of Notary Public.

Section 46

FEES AND CONTRIBUTIONS

The social welfare board may charge contributions or fees for foster or residential care provided as substitute care, and for care or custody provided in pursuance of section 14 of this Act, the bases of which are laid down in Presidential Decree:

1) from a child's parents to the extent they are responsible for maintenance of the child as stipulated in the Marriage Act (234/29), Child Maintenance Act (704/75) and Adoption Act (32/79); and

2) out of income, compensation or other receivables due to a child, as stipulated in section 29 of the Social Welfare Act.

A sufficient amount of money shall be provided for the personal needs and set aside for promoting the independence of a child who is in care according to para 1 of this section.

The payment, collection, exemption from and bases of calculation for such fees and contributions are laid down in the Social Welfare Act.

Section 47

POWERS TO ISSUE SUPPLEMENTARY RULES

Supplementary rules relating to the implementation and application of this Act shall be issued by Presidential Decree.

Chapter 9
ENTRY INTO FORCE

Section 48

ENTRY INTO FORCE

This Act shall enter into force on 1st day of January 1984.

This Act repeals the Child Welfare Act of 17th January of 1936 (52/36), and all its subsequent amendments.

Where reference is made in other laws to the provisions of the Child Welfare Act of 1936, the provisions of this Act shall be applied instead.

Necessary measures for the implementation of this Act may be taken before its entry into force.

Section 49

APPLICATION OF THE CHILD WELFARE ACT OF 1936

Where proceedings based on the Child Welfare Act of 1936 are pending or where the appeal period expires after the entry into force of this Act, the provisions enforceable at the time this Act enters into force shall be applied

The provisions that were enforceable in pursuance of former laws shall be applied to the compensation of foster care given to the child prior to the entry into force of this Act.

Section 50

TRANSITIONAL PROVISIONS

If notification according to section 26, para 1, of the Child Welfare Act of 1936 has been made of a child who can be regarded as privately placed by virtue of this Act, it is not necessary to notify the social welfare board again in accordance with this Act.

Where a child has been taken into the care of the social welfare board under an enforceable decision by virtue of the Child Welfare Act of 1936, the care shall continue without a new decision in accordance with this Act.

Section 51

FIXED PERIODS FOR TRANSITION

Where a fixed period prescribed in section 41, para 2, of the Child Welfare Act of 1936 has not expired before the entry into force of this Act, the fixed period prescribed in section 45, para 1, of this Act shall be counted from the time this Act enters into force.

An interim care order prescribed in section 9, para 2, point 3, and a temporary placement of a child to be brought up away from his home pursuant to section 19, para 1, of the Child Welfare Act of 1936 shall expire not later than three months after the time this Act enters into force.

CHILD CUSTODY AND RIGHT OF ACCESS ACT OF 1983

FINLAND

Chapter 1
GENERAL PROVISIONS

Section 1
CHILD CUSTODY

The objects of custody are to ensure the well-being and the well-balanced development of a child according to his individual needs and wishes, and to ensure for a child close and affectionate human relationships in particular between a child and his parents.

A child shall be ensured good care and upbringing as well as the supervision and protection appropriate to his age and stage of development. A child should be brought up in a secure and stimulating environment and should receive an education that corresponds to his wishes, inclinations and talents.

A child shall be brought up in the spirit of understanding, security and love. He shall not be subdued, corporally punished or otherwise humiliated. His growth towards independence, responsibility and adulthood shall be encouraged, supported and assisted.

Section 2
THE RIGHT OF ACCESS

The objects of access are to ensure a child the right to meet the parent with whom he no longer lives and maintain contact with him or her.

A child's parents shall, in mutual understanding and having the best interests of the child as the first and paramount consideration, make every effort to ensure the implementation of the purpose of access in conformity with the principles stated in section 1 of this Act.

Section 3
THE CUSTODIANS

The custodians of a child are his parents or other persons to whom custody of a child has been given.

Custody shall cease when the child attains the age of eighteen years or concludes marriage before that age.

Section 4

DUTIES OF CUSTODIANS

The custodians shall safeguard the child's development and well-being as laid down in section 1 of this Act. For this purpose, they are empowered to make decisions on the child's care, upbringing, residence and other matters relating to the person of the child.

Before a custodian makes a decision on a matter relating to the person of the child, he shall, where possible, discuss the matter with the child taking into account the child's age and maturity and the nature of the matter. In making the decision the custodian shall give due consideration to the child's feelings, opinions and wishes.

The custodian has the power to represent the child in matters relating to his person, unless otherwise provided by law.

Section 5

JOINT EXERCISE OF CUSTODY

The custodians shall be jointly responsible for the exercise of custody and shall jointly make all decisions relating to the child unless otherwise provided by law.

If one of the custodians is unable to take part in the making of a decision owing to absence, illness or some other reason and if a delay in deciding the matter would be detrimental, his consent on the matter shall not be necessary. A matter of great importance for the future of the child, however, may only be decided jointly by the custodians unless it is manifest that the best interests of the child otherwise require.

Chapter 2

CUSTODIANS AND THE RIGHT OF ACCESS

Section 6

THE ATTRIBUTION OF CUSTODY BY BIRTH

Where the parents of a child are married to each other at the time of his birth, custody of the child shall be vested in both parents. Where the parents are not married to each other at the time of his birth, custody shall be vested in the mother.

Where one of the parents has sole custody of a child and later marries the other parent, custody shall be vested in both parents.

Section 7

VOLUNTARY SETTLEMENT ON CUSTODY AND RIGHT OF ACCESS

A child's parents may stipulate

1)that they shall have joint custody of the child;

2) that the child shall reside with one of the parents, if they are not living together;

3) that one parent alone shall have custody;

4) that the child has the right of access to the parent with whom he no longer resides, in conformity with the agreement of the parents.

Section 8

APPROVAL OF THE VOLUNTARY SETTLEMENT

A voluntary settlement on child custody and access shall be made in writing and shall be subject to approval of the social welfare board of the local authority of the child's habitual residence. In considering whether to approve the settlement, the social welfare board shall take account of the child's interests and wishes as provided for by sections 10 and 11 of this Act. The settlement shall not be approved if neither of the parents has custody of the child.

A settlement approved by the social welfare board shall have the same validity and shall be equally enforceable as a court order.

Section 9

COURT ORDERS ON CHILD CUSTODY AND RIGHT OF ACCESS

A court of law may order

1) that the parents shall have joint custody of a child;

2) that a child shall reside with one of the parents, if they are not living together;

3) that one parent alone shall have custody;

4) that one or more persons who have consented thereto shall have the custody of a child instead of, or togerher with, the parent or parents;

5) that a child shall have the right of access to the parent with whom he no longer resides.

If one or both of the parents has custody of a child, a court may transfer custody from the parents or a parent to one or more other persons by virtue of para 1, point 4, of this section where this would manifestly be in the best interests of the child.

Where necessary, a court may issue directions on the attribution of duties, rights and responsibilities of a person or persons assigned custody of a child and, if there are two or more such persons, may decide on the distribution of responsibilities between them. In deciding on the right access, a court shall issue directions on the conditions for the access.

In deciding on child custody and right of access, a court of law shall consider the best interests of the child and his own wishes, as stipulated in sections 10 and 11 of this Act.

Section 10

CONSIDERATIONS IN MATTERS RELATING TO CUSTODY AND RIGHT OF ACCESS

The best interests of the child shall be the first and paramount consideration in settling any matter concerning custody and right of access. For this purpose, special attention shall be paid to the way in which the objects of custody and right of access can best be implemented in the future.

A matter where the issue is whether to grant custody to both parents or to one parent alone shall be settled as agreed by the parents where custody is vested in both parents or one of them, provided there are no reasons to believe that such a settlement would be contrary to the child's interests.

Section 11

ASCERTAINMENT OF THE WISHES AND VIEWS OF THE CHILD

Where the parents are unable to reach an agreement on custody or right of acces or where a child is in the care of a person not having the legal custody of the child, or where otherwise deemed to be necessary having regard to the best interests of the child, the wishes and views of the child shall be ascertained so far as practicable having regard to the age and maturity of the child.

The views of the child shall be ascertained tactfully, taking into account his stage of development, and in such a way that no harm will be caused to the relationship between the child and his parents.

Section 12

VARIATION AND REVOCATION OF VOLUNTARY SETTLEMENTS AND COURT ORDERS

A settlement on child custody and right of access approved by the social welfare board as well as a court order may be varied or revoked where there has been a change of circumstances or where otherwise deemed to be appropriate.

Chapter 3

JUDICIAL PROCEEDINGS

Section 13

THE COMPETENT COURT

The competent court in proceedings relating to custody and right of access is the court of the district where the child has his habitual residence.

Section 14

COMMENCEMENT OF PROCEEDINGS AND THE RIGHT TO MAKE APPLICATION

Proceedings relating to custody or right of access shall be commenced by making a written application to the court. The application can be made by the parents jointly, by one of the parents, by the child's custodian, or by the local social welfare board.

Where the custodian has died and no person has custody of the child, an application for custody can also be made by a relative of the child or another person close to him.

An application for the making of a maintenance order or for the variation or revoking of an order or a maintenance settlement may be submitted in connection with proceedings relating to child custody or right of access.

Section 15

SERVICE OF THE APPLICATION AND HEARING OF A CHILD IN COURT

The application shall be served on the parents and custodians of the child unless their whereabouts are unknown and cannot be discovered.

A child himself can be heard personally in court if this is for serious reasons necessary for deciding the case. Such a hearing can be given only where the child gives his consent and it is obvious that this will not cause any harm to the child.

Section 16

REPORTS BY THE SOCIAL WELFARE BOARD

A court dealing with a petition relating to child custody or right of access may request the social welfare board of the habitual residence of the child, parents, custodians and of the person proposed to be the custodian, to make a report to the court. The request shall not be made where the making of the report is not necessary for deciding the case.

Where it becomes evident during the making of the report that the matter can be solved out of court by a voluntary settlement between the parents as provided for in section 7 of this Act, the social welfare board shall give the parents any advice and assistance necessary for the making of a settlement.

Section 17

INTERIM ORDERS

Where proceedings relating to child custody or right of access are pending the court may make an interim order and stipulate with whom the child shall reside and an interim order relating to the right of access. The court may equally make an order on the attribution of custody of the child where special circumstances so require.

An interim order cannot be appealed.

An interim order shall remain in force until the decision issued in the proceedings has become final, unless the order has been varied or revoked by the court.

Chapter 4
MISCELLANEOUS PROVISIONS

Section 18
ORDER FOR THE RETURN OF THE CHILD

Where a child habitually resident in Finland has been taken abroad without the consent of the person having custody, a court may, upon application by the custodian, order that the child be returned. Such an order may also be made where a child is taken abroad with the consent of the person with custody but is not returned within the agreed, implied or a reasonable time.

An order referred to in para 1 shall be made provided it is obvious that the person with custody has not given his consent to such a removal or retention or has approved it either explicitly or implicitly. The application for an order to return the child need not be served when the service would cause delay in proceedings.

An order for the return of a child cannot be appealed.

Section 19
ENFORCEMENT OF AN ORDER SUBJECT TO APPEAL

An order relating to child custody or right of access shall be immediately enforceable although it is subject to appeal, unless otherwise stipulated by the court.

Section 20
POWERS TO ISSUE SUPPLEMENTARY RULES

Supplementary rules relating to the implementation of this Act shall be issued by Presidential Decree.

Section 21
ENTRY INTO FORCE AND TRANSITIONAL PROVISIONS

This Act shall enter into force on 1st day of January 1984.

The provisions of this Act shall be applied also to children born before the entry into force of this Act. They shall also be applied in proceedings pending at the time this Act enters into force, and to proceedings relating to the variation or the revoking of orders on custody or right of access made before the entry into force of this Act.

After the entry into force of this Act, any law or decree on the rights and responsibilities of the child's guardian to represent the child in matters relating to his person or maintenance, shall be applied to the person or persons having custody of him.

Where reference is made in other laws and decrees to the provisions of the legislation revoked by this Act, the provisions of this Act shall be applied instead.

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CENTRAL UNION FOR CHILD WELFARE IN FINLAND

The Central Union for Child Welfare in Finland is a nationwide agency for cooperation in child welfare. Its membership comprises 77 organizations and 48 local authorities. The principal tasks of the Central Union are advocacy for children, information, research, and international cooperation. It also publishes a monthly magazine Lapset ja Yhteiskunta (Children and Society).

According to its constitution, the Central Union for Child Welfare in Finland shall improve all aspects of child welfare and to promote cooperation in the field of child welfare among the organizations and other bodies, and local and state authorities. For this purpose the Central Union organizes seminars, consultations and training sessions for its members. Cooperation may also take place in the form of special projects and publishing. In addition, the Central Union has a library with a comprehensive collection of volumes and domestic as well as foreign periodicals, which are at the disposal of all those who need them.

In international cooperation the Central Union has close connections with many child welfare organizations abroad. Cooperation among the Nordic countries is particularly close. In connection with the Universal Children's Day in October, the Central Union works with other similar bodies for promotion and publicity of different development aid projects.

CENTRAL UNION FOR CHILD WELFARE IN FINLAND
Armfeltintie 1, SF-00150 Helsinki, Finland
tel. (0)-625901